

UNAPPROVED
VIRGINIA BOARD OF FUNERAL DIRECTORS AND EMBALMERS
MEETING ON DEATH CERTIFICATES
MEETING MINUTES

A meeting regarding death certificates was convened on Wednesday, June 16, 2010, at the Department of Health Professions, Perimeter Center, 9960 Mayland Drive, Suite 201, 2nd Floor, Board Room #2, Henrico, Virginia.

The following Board members were present:

Willard D. Tharp, FSP, Chair
Randolph T. Minter, FSP
Michael Leonard, FSP
Billie Watson Hughes, FSP

DHP staff present for all or part of the meeting included:

Dr. Dianne Reynolds-Cane, Agency Director
Arne W. Owens, Chief Deputy Director
Lisa R. Hahn, Executive Director
Jay Douglas, Executive Director, Board of Nursing
Dr. William Harp, Executive Director, Board of Medicine
Diane Powers, Communications Director
Elaine J. Yeatts, Senior Policy Analyst
Gloria Mitchell, Deputy Executive Director, Board of Nursing
Missy Currier, Administrative Assistant

Representative from the Office of the Attorney General was present for the meeting:

Amy Marschean, Senior Assistant Attorney General
Howard Casway, Senior Assistant Attorney General

Others Present:

Leah Bush, M.D., M.E., Medical Examiners Office
Janet Rainey, Director, Bureau of Vital Statistics
Debbie Secor, Virginia Department of Health (VDH)
Scott Johnson, (HDJN) Medical Society of Virginia
Tyler Cox, Medical Society of Virginia
Michael Jurgensen, Medical Society of Virginia
Aimee Perron Seibert, VA College of Emergency Physicians
Kent Willyard, MD, VA Academy of Family Physicians
M. Seth Ginther, Esq., Virginia Academy of Family Physicians
David Anderson, Virginia Funeral Directors Association
Bob Oman, Virginia Funeral Directors Association
Lacy Whittaker, Virginia Funeral Directors Association
Josh Myers, Virginia Funeral Directors Association

Meredyth Partridge, Regulatory Support Services, Inc. (RSS)
Barry D. Robinson, Virginia Mortuary Association (VMA)
Bo Kenney, Independent Funeral Homes of Virginia
Barbara Fowler, Elizabeth Adam Crump Manor
Tom Orsini, Board of Long Term Care Administrators
Beverly Soble, Virginia Healthcare Association (VHCA)
Paul Clements, Virginia Healthcare Association (VHCA)
Mary Duggan, Virginia Council of Nurse Practitioners (VCNP)
Michele Satterlund, Virginia Council of Nurse Practitioners (VCNP)

CALLED TO ORDER

Mr. Tharp called the meeting to order at 1:05 pm

WELCOME

Mr. Tharp greeted and welcomed everyone for coming to the meeting and asked all in attendance to introduce themselves.

ADOPTION OF THE AGENDA

The agenda was accepted.

ACCEPTANCE OF THE MINUTES

Ms. Hahn reviewed the minutes from the April 30, 2010 and May 13, 2010 meetings and explained that several issues were discussed as well as possible solutions. A "to do list" was developed during the May meeting for Ms. Rainey, Dr. Leah Bush, Elaine Yeatts, Ms. Hahn and Ms. Marschean to complete and bring back to this meeting for discussion.

PRESENTATION

Tobin Joseph, Sameev Gupta and Diana Malik, staff members of the Virginia Department of Health, Office of Information Management Team (VDH OIM), provided a PowerPoint presentation on Electronic Death Registration System (EDR). The implementation of the EDR should provide improved customer service to the general public by allowing users to sign and print death certificates in real time, track status of cases, eliminate the need for funeral service providers to travel back and forth, and making corrections electronically.

Ms. Rainey did state that the program will only be as good as the providers that participate and utilize the system. She anticipates that the system could be ready as early as this fall.

FILING DEATH CERTIFICATES § 32.1.263

Mr. Tharp opened the discussion by stating that the purpose of the meeting was to discuss the ongoing issue of physicians not signing death certificates in a timely manner. Mr. Tharp also added that although we may not completely resolve the issue, the suggestions offered today will hopefully bring us closer to solving the issue.

Ms. Rainey provided a revised copy of a blank death certificate with the following changes:

§32.1-263(A). A death certificate shall be filed for each death which occurs in this Commonwealth within three days after such death.

§32.1-263C. The medical certification shall be completed, signed and returned to the funeral director within 24 hours after death by the physician in charge of the patient's care.

COMMENTS

Barry D. Robinson, Virginia Mortuary Association (VMA), initiated discussion by stating that he felt the purpose of the meeting was to determine consequences for physicians not signing death certificates in a timely manner.

Bob Oman, Virginia Funeral Directors Association, Mr. Oman spoke vehemently about his frustration with the fact that after 8 years the issue still remains that nobody is accountable for physicians not signing death certificates. He expressed that hospital administrators are advising physicians not to sign death certificates because of potential legalities. Mr. Oman asked the Board of Medicine if they were in a better position to monitor physicians not signing the death certificates. Mr. Oman stressed the fact that nursing homes would be hit hard by a legal requirement to hold a body until a death certificate is signed.

Dr. Leah Bush, Chief Medical Examiner for the Virginia Department of Health, Dr. Bush stated that "physicians should not be afraid to sign a death certificate". She indicated that she was unaware of any cases where a doctor was sued as a result of signing a death certificate. Dr. Bush pointed out that it is the responsibility of the physician who had the last act of patient care (especially if they were prescribing medications) to sign the death certificate. She also advised that members of the funeral profession be more proficient when delivering death certificates by providing as much background information regarding the decedent as they can.

Dr. Bush stated that physicians are supposed to report the reasonable cause of death based on medical conditions and if they are unsure of the cause, or have a concern, they may contact her office at any time for assistance. Dr. Bush repeatedly stated that she is personally willing to provide any educational training necessary to assist physicians in becoming more knowledgeable and comfortable in filling out death certificates.

One recommendation offered by Dr. Bush was to make hospitals the “hammer” against physicians. She suggested that as part of a physicians affiliation with the hospital, that and death certificate educational program be implemented as part of the orientation and to make that signing the death certificate as a condition of the employment or contract. Additionally, Dr. Bush questioned who would be responsible for keeping track of those physicians who repeatedly fail to sign a death certificate in a timely manner.

Ms. Rainey, Vital Records-Virginia Department of Health

Ms. Rainey stated that over the past few years, she has been working on an educational tutorial for physicians. She stated that it has taken a back burner but after consulting with Dr. Bush, they have committed to resurrecting this tutorial. They plan to update some of the scenarios and have it ready by January 1, 2011. Ms. Rainey also provided the amended language for the death certificates as well as the paper requirements for computer generated death certificates.

Dr. William Harp, Executive Director, Board of Medicine, Dr. Harp’s response to whether or not the Board of Medicine was in the best position to monitor physicians not signing death certificates was that they do not have the legal authority to penalize physicians failing to sign the death certificate in a timely manner. Dr. Harp stated that only the Virginia Department of Health under § 32.1-263 has the authority to impose civil penalties and that the “hammer” rests with them. He also suggested a web-based educational model on how to properly fill out death certificates.

Kent Willyard, MD, VA Academy of Family Physicians, commented that physicians are comfortable with what they know and uncomfortable with what they don’t know. Additionally, he commented that the electronic route may make the process easier.

Barbara Fowler, Elizabeth Adam Crump Manor, explained the position of long term care facilities whereby it is unreasonable and undignified to keep a deceased body in a room while waiting for the funeral service provider to obtain a signed death certificate. Long term care facilities do not have the storage capacity to hold a dead body.

Randolph T. Minter, FSP, Board President, added that funeral service providers also lack storage capacity for storing dead bodies. He also mentioned that they cannot move forward with a cremation without a death certificate. Mr. Minter suggested expanding the authority of medical personnel authorized to sign death certificates to include physician assistants and nurse practitioners.

Beverly Soble, Virginia Healthcare Association (VHCA), Ms. Soble requested that everyone keep in mind when making decisions on these issues the hardship on long term care facilities which also have to keep compliant with state and federal regulations.

Tom Orsini, Board of Long Term Care Administrators, Mr. Orsini stated that the doctors do need to be educated on how to handle these situations.

Meredyth Partridge, Regulatory Support Services, Inc. (RSS), Ms. Partridge gave an example of recent situation whereby a client was waiting on death certificates for 17 bodies needing to be cremated. Meanwhile, the bodies are on gurneys in a crematory without air conditioning. Ms. Partridge wanted to stress the point that the Department of Health needs to do its job because it is the law in Virginia and it has not been enforced. Ms. Partridge asked Dr. Dianne Reynolds-Cane, Agency Director, if the Secretary of Health and Human Services has the authority over the Board of Health and whether or not she would be willing to speak on this matter.

Dr. Dianne Reynolds-Cane, Agency Director, responded to Ms. Partridge's request by stating that she would bring the issue to the attention of the Secretary of Health and Human Services. Dr. Reynolds-Cane stressed that educating physicians on proper signing of death certificates is a key component. She would like to see the tutorial for the proper filing of death certificates. Once this is provided we could host it on the agency's website. Dr. Cane suggested looking at the possibility of lengthening the time frame permitted for signing of the death certificate from 24 to 36 or 48 hours.

BREAK

A ten minute recess was taken at 2:35 p.m.

Willard "Skip" Tharp, FSP, Chair, re-convened the meeting by questioning whether or not it is permissible for a physician to charge a fee for signing a death certificate.

Amy Marschean, Senior Assistant Attorney General, when Dr. Bush stated that she thought by law it is not permissible to charge a fee for signing death certificates, Ms. Marschean stated she would review the law regarding this issue and report back. Ms. Marschean stated she did not believe Mr. Johnson's suggestion of issuing an Advisory letter from the Board of Medicine or physicians who fail to sign death certificates in a timely manner was feasible because failure to do so did not violate Virginia Code § 54.1-2915, the boards unprofessional conduct statute, but she will research the matter.

Billie Watson Hughes, FSP, Ms. Hughes stated that families are waiting on death certificates in order to file the insurance claims that are going to pay for the cremation or burial.

Elaine J. Yeatts, Senior Policy Analyst, Ms. Yeatts stated that education was the key to this issue back in 2004 and since then the level of frustration has risen. She would like the Committee to consider Confidential Consent Agreements (CCA's) as the "hammer". The agreement would stipulate that repeat offenders would be required to complete some type of educational component given by the Medical Examiner's Office.

Scott Johnson, (HDJN) Medical Society of Virginia, provided several comments and suggestions at the meeting regarding the issue of physicians not signing death certificates in a timely manner. He added that physicians fear being pulled into a trial in order to give a deposition. The following are recommendations that Mr. Johnson shared at the meeting:

- Expand the authority to sign death certificates to nurse practitioners and physician assistants
- Grant immunity to physicians who determine the cause of death in good faith and who signs the death certificate
- Make physicians aware that they may contact the Medical Examiners Office for assistance if they are unsure of the cause of death
- Have the Medical Society host an instructive webinar on filing death certificates.

David Anderson, Virginia Funeral Directors Association, Mr. Anderson asked Mr. Johnson to review his proposals again regarding legislation changes and suggestions. Mr. Anderson concluded that a mechanism is needed to make this issue a priority.

Lisa R. Hahn, Executive Director, Ms. Hahn clarified that currently the Board of Medicine does not have the authority to discipline under Title § 32.1. However if § 32.1-263 was added to § 54.1-2915, the Board of Medicine would then have the ability to discipline a physician. She asked for clarification from Mr. Johnson about an earlier comment that he made. She also explained that there have been a number of suggested changes to resolve the issue of physicians not signing the death certificate required by law. She encouraged the attendees to attempt to resolve these issues without being adversarial and stressed that we should work collaboratively and avoid going to the General Assembly with problem legislation. She concluded that she and the board are committed to resolving the issue and that she would be forming additional subcommittees if necessary to assist with a final resolution. She plans to draft recommendations from this meeting for the Board of Funeral Directors and Embalmers to review. She thanked the attendees for their participation and assistance.

Mr. Tharp also thanked everyone for their assistance and stated that this topic will be addressed at the next full board meeting in July.

ADJOURNMENT

There being no further business before the Board, the meeting adjourned at 4:00 p.m.

Willard D. Tharp, FSP, Chair

Lisa R. Hahn, Executive Director

DATE

DATE